UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,411	09/19/2003	John Aram Safa	FORR 2793	1507

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SMITH-HILL AND BEDELL, P.C.
16100 NW CORNELL ROAD, SUITE 220
BEAVERTON, OR 97006

EXAMINER
PATEL, NIRAV B

ART UNIT	PAPER NUMBER
2135	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>18 July 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>5</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ They raise the issue of new matter (see NOTE below);

   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: <u>None</u>.

   Claim(s) objected to: <u>None</u>.

   Claim(s) rejected: <u>41-52 and 62</u>.

   Claim(s) withdrawn from consideration: <u>53-61,63 and 64</u>.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/KimYen Vu/
Supervisory Patent Examiner, Art Unit 2135

Continuation of 3: The amended claims 45-52 are not entered. Even if the amendment to claims 45-52 is entered, the amended claims have not overcome 35 U.S.C. 101 issue. Claim 45 recites, "A storage medium containing computer software operable to provide a software protection arrangement for protecting software......, and the arrangement including: identifying means....; an authorization server....; and enabling means operable to ....". A software protection arrangement for protecting software is comprised of multiple modules. As such, the claimed arrangement must include hardware or physical transformation necessary to realize any of the functionality of the claimed modules and produce a useful, concrete and tangible result. Claim 45 is merely stored so as to be read or outputted by a computer without creating any functional interrelationship, either as part of the stored data or as part of the computing processes performed by the computer, and such descriptive material alone doesn't impart functionality either to the data as so structured, or to the computer. It is not statutory since no requisite functionality is present to satisfy the practical application requirement Therefore, claim 45 recites non-statutory subject matter.

Further, the amended claims 45, 46, 48, 50, 51, would raise new issue that would require further consideration and/or thorough search.

Continuation of 11 does NOT place the application in condition for allowance because: Applicant's arguments filed 07/18/08 have been fully considered but they are not persuasive.

Regarding to applicant argument to claim 45, Examiner maintains, Shimizu's invention relates to management of security and of license in a system for distributing program data, which can be executed by a machine/device, to user via a network. As shown in Fig. 4, a user activates the communication software by powering on the terminal and requests an ID number from the file server by sending the registration number. The file server employs the received registration number to ascertains whether the user is authorized to receive the ID number and transmit the requested ID number to the requesting terminal. The terminal transmits the requested ID number to the key server. The key server searches the database, using the received ID number as an address and reads out a corresponding decryption key. The terminal decodes or decrypts the encrypted program by using the decryption key. Therefore, Shimizu teaches, verifies that use of the protected software by the device/terminal is authorized before generating/providing the key to the device/terminal and decrypts the encrypted program using the decryption key. Further, Hughes's invention relates to system and method for preventing piracy or illicit use of software by identifying hardware components of the computer. The activation server has an activation unit to assign a license file to the software product on the customer's computer (device/terminal). The activation unit computes the license file from the product ID and the hardware ID (i.e. executing at the server a predetermined function to form a derived identifier, the predetermined function operating on at least two variables). Mittal's invention relates to a method and an apparatus for enabling a decryption program to periodically verify the identity of a computer system during the program's execution to ensure that the system is authorized to execute that program. Microprocessor generates the hash value (using predetermined function) from key and identifier as shown in Fig. 2. Therefore, Mittal teaches a predetermined function to form a derived identifier, the predetermined function operating on at least two variables including the identifier and key. Further, Yeung teaches obtaining the key from the identifier and the hash value (the derive identifier, the result from the first predetermined function). Therefore, the combination of Shimizu, Hughes, Mittal and Yeung teach the claim subject matter. Regarding to applicant remark, "....the system does not employ encryption to protect the decryption key", is not stated expressively in the claim language and therefore, the remark is not considered unless stated clearly in the claim language.

The Applicant is reminded that additional modification to clarify the claimed language is necessary for further consideration and distinction from the prior art.